

BOUNDARY ON THE PACIFIC OCEAN.

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

The Correspondence with the British Government,

IN RELATION TO THE

Boundary of the United States

ON THE

PACIFIC OCEAN.

JANUARY 31, 1826.

Read, and committed to the Committee of the Whole House, to which is committed the Bill to authorize the establishment of a Military Post, or Posts, on the Pacific Ocean, and to provide for the exploration of its coasts and waters.

WASHINGTON:

PRINTED BY GALES & SEATON.

1826.

nw

979.51

US8

T

of
w
th
th

To the House of Representatives of the United States.

WASHINGTON, 31st January, 1826.

In compliance with a Resolution of the House of Representatives, of the 18th instant, I transmit a Report from the Secretary of State, with the Correspondence with the British Government, relating to the Boundary of the United States on the Pacific Ocean, desired by the Resolution.

JOHN QUINCY ADAMS.

th
th
b
o
to
a
m
to
l

DEPARTMENT OF STATE,

Washington, 30th January, 1826.

The Secretary of State, to whom was referred the Resolution of the House of Representatives, of the 18th of January, 1826, requesting the President to communicate to that House all the correspondence between the Government of the United States and the Government of Great Britain, respecting the Boundary of that part of the Territory of the United States which is situated upon the Pacific Ocean, and which has not already been communicated, or so much thereof as may be compatible with the public interest to disclose, has the honor to report to the President, as coming within the purview of the Resolution, copies of

1. A Letter from Mr. Adams, late Secretary of State, to Mr. Rush, under date the 22d day of July, 1823.
2. An extract from a despatch of Mr. Rush to the Secretary of State, under date the 12th day of August, 1823.
3. Copy of the Protocol of the 11th Conference of the American and British Plenipotentiaries, held at the Board of Trade, (in London,) on the 1st April, 1824.
4. Copy of the Protocol of the 12th Conference.
5. Copy of the Protocol of the 20th ditto.
6. Extract from the Protocol of the 23d.
7. Copy of Paper marked F. American Paper, on the Northwest Coast of America.
8. Copy of Paper marked P. British Paper, on the Northwest Coast of America.

Respectfully submitted,

H. CLAY.

an
co
co
w
w
th
ri
an
po

21
“
“
“
“
“
“
“
“
“
“
“
“
“

THE

241

it
t
e
t
s
t

Mr. Adams to Mr. Rush.

DEPARTMENT OF STATE,

Washington, July 22d, 1823.

SIR: Among the subjects of negotiation with Great Britain which are pressing upon the attention of this Government, is the present condition of the Northwest coast of this continent. This interest is connected, in a manner becoming, from day to day, more important, with our territorial rights; with the whole system of our intercourse with the Indian tribes; with the boundary relations between us and the British North American dominions; with the fur trade; the fisheries in the Pacific Ocean; the commerce with the Sandwich Islands and China; with our boundary upon Mexico; and, lastly, with our political standing and intercourse with the Russian Empire.

By the third article of the Convention between the United States and Great Britain, of 20th October, 1818, it is agreed, that, "any country that may be claimed by either party, on the Northwest coast of America, Westward of the Stoney Mountains, shall, together with its harbors, bays, and creeks, and the navigation of all rivers within the same, be free and open for the term of ten years, from the date of the signature of the Convention, to the vessels, citizens, and subjects, of the two Powers: it being well understood, that this agreement is not to be construed to the prejudice of any claim which either of the two high contracting parties may have to any part of the said country; nor shall it be taken to affect the claims of any other Power or State, to any part of the said country: the only object of the high contracting parties, in that respect, being, to prevent disputes and differences amongst themselves."

On the 6th of October, 1818, fourteen days before the signature of this Convention, the settlement at the mouth of Columbia River had been formally restored to the United States, by order of the British Government. (Message P. U. S. to H. R. 15th April, 1822, p. 13. Letter of Mr. Prevost to the Secretary of State, of 11th Nov. 1818.)

By the Treaty of amity, settlement, and limits, between the United States and Spain, of 22d February, 1819, the boundary line between them was fixed at the 42° of lat. from the source of the Arkansas river to the South Sea. By which Treaty, the United States acquired all the rights of Spain North of that parallel.

The right of the United States to the Columbia River, and to the interior territory washed by its waters, rests upon its discovery from the sea, and nomination, by a citizen of the United States; upon its exploration to the sea by Captains Lewis and Clarke; upon the settlement of Astoria, made under the protection of the United States, and thus restored to them in 1818; and upon the subsequent acquisition of all the rights of Spain, the only European Power who, prior

to the discovery of the river, had any pretensions to territorial rights on the Northwest coast of America.

The waters of the Columbia River extend, by the Multnomah, to the 42° of lat. where its source approaches within a few miles of those of Platte and Arkansas, and by Clark's river, to the 50th or 51st degree of lat.; thence descending Southward till its sources almost intersect those of the Missouri.

To the territory thus watered and immediately contiguous to the original possessions of the United States, as first bounded by the Mississippi, they consider their right to be now established by all the principles which have ever been applied to European settlements upon the American hemisphere.

By the Ukase of the Emperor Alexander, of $\frac{4}{18}$ September, 1821, an exclusive territorial right, on the Northwest coast of America, is asserted as belonging to Russia, and as extending from the Northern extremity of the continent to latitude 51, and the navigation and fishery of all other nations are interdicted by the same Ukase, to the extent of 100 Italian miles from the coast.

When Mr. Poletica, the late Russian Minister here, was called upon to set forth the grounds of right, conformable to the laws of nations, which authorized the issuing of this decree, he answered, in his letters of 28th February and 2d April, 1822, by alleging, first, discovery, occupancy, and uninterrupted possession.

It appears, upon examination, that these claims have no foundation in fact. The right of *discovery*, on this continent, claimed by Russia, is reduced to the probability that, in 1741, Captain Tchirikoff saw, from the sea, the mountain called St. Elias, in about the 59th degree of North latitude. The Spanish navigators, as early as 1582, had discovered, as far North as 57° 30'

As to occupancy, Captain Cook, in 1779, had the express declaration of Mr. Ismaloff, the chief of the Russian settlement at Oonalaska, that they *knew nothing* of the continent in America; and in the Nootka Sound controversy, between Spain and Great Britain, it is explicitly stated, in the Spanish documents, that Russia had disclaimed all pretension to interfere with the Spanish exclusive rights to *beyond* Prince William's Sound, lat. 61. No evidence has been exhibited of any Russian settlement on this continent, South and East of Prince William's Sound, to this day, with the exception of that in California, made in 1816.

It never has been admitted, by the various European nations which have formed settlements in this hemisphere, that the occupation of an island gave any claim whatever to territorial possessions on the continent to which it was adjoining. The recognized principle has rather been the reverse: as, by the law of nature, islands must be rather considered as appendages to continents, than continents to islands.

The only color of claim alleged by Mr. Poletica, which has an appearance of plausibility, is that which he asserts as an authentic fact, "that, in 1789, the Spanish packet St. Charles, commanded by

"Captain Haro, found, in the latitude 48 and 49, Russian settlements "to the number of eight, consisting, in the whole, of twenty families, "and 462 individuals." But, more than twenty years since, Flurieu had shown, in his introduction to the voyage of Marchand, that, in this statement there was a mistake of, at least, ten degrees of latitude; and that, instead of 48 and 49, it should read, 58 and 59. This is, probably, not the only mistake in the account. It rests, altogether, upon the credit of two private letters; one written from St. Blas, and the other from the city of Mexico, to Spain, there communicated to a French consul in one of the Spanish ports, and by him to the French minister of marine. They were written in October, 1788, and August, 1789. We have seen that, in 1790, Russia explicitly disclaimed interfering with the exclusive rights of Spain to *beyond* Prince William's Sound, in latitude 61; and Vancouver, in 1794, was informed by the Russians on the spot, that their most *Eastern* settlement there, was on Hinchinbrook Island, at Port Etches, which *had been established in the course of the preceding summer*, and that the adjacent continent was a *sterile and uninhabited country*. Until the Nootka Sound contest, Great Britain had never advanced any claim to territory upon the Northwest Coast of America, by right of occupation. Under the treaties of 1763, her territorial rights were bounded by the Mississippi.

On the 22d July, 1793, Mackenzie reached the shores of the Pacific, by land, from Canada, in latitude 52, 21, north, longitude 128, 2, west of Greenwich.

It is stated in the 52d number of the Quarterly Review, in the article upon Kotzebue's voyage, "that the whole country, from latitude "56 30 to the United States, in latitude 48, or thereabouts, is now, "and has long been, in the actual possession of the British North- "west Company"—that this company have a post on the borders of a river in latitude 54 30, north, longitude 125, west, and that in latitude 55 15, north, longitude 129 44 west, "by this time, (March, "1822,) the United Company of the Northwest and Hudson's Bay, "have, in all probability, formed an establishment."

It is not imaginable that, in the present condition of the world, *any* European nation should entertain the project of settling a *colony* on the Northwest Coast of America; that the United States should form establishments there, with views of absolute territorial right, and inland communication, is not only to be expected, but is pointed out by the finger of nature, and has been for years a subject of serious deliberation in Congress. A plan has, for several sessions, been before them, for establishing a territorial government on the borders of the Columbia river. It will, undoubtedly, be resumed at their next session, and even if then again postponed, there cannot be a doubt that, in the course of a very few years, it must be carried into effect. As yet, however, the only useful purpose to which the Northwest Coast of America has been, or can be made subservient to the settlements of civilized men, are the fisheries on its adjoining seas, and trade with the aboriginal inhabitants of the country. These have, hither-

to, been enjoyed in common by the people of the United States, and by the British and Russian nations. The Spanish, Portuguese, and French nations, have, also, participated in them, hitherto, without other annoyance than that which resulted from the exclusive territorial claims of Spain, so long as they were insisted on by her.

The United States and Great Britain, have both protested against the Russian Imperial Ukase, of $\frac{4}{18}$ September, 1821. At the proposal of the Russian Government, a full power and instructions are now transmitted to Mr. Middleton, for the adjustment, by amicable negotiation, of the conflicting claims of the parties on this subject.

We have been informed by the Baron de Tuyll, that a similar authority has been given on the part of the British Government to Sir Charles Bagot.

Previous to the restoration of the settlement at the mouth of Columbia River, in 1818, and again, upon the first introduction in Congress of the plan for constituting a territorial government there, some disposition was manifested by Sir Charles Bagot and Mr. Canning, to dispute the *right* of the United States to that establishment; and some vague intimation was given of British claims on the Northwest Coast. The restoration of the place, and the convention of 1818, were considered as a final disposal of Mr. Bagot's objections, and Mr. Canning declined committing to paper those which he had intimated in conversation.

The discussion of the Russian pretensions in the negotiation now proposed, necessarily involves the interests of the three Powers, and renders it manifestly proper that the United States and Great Britain should come to a mutual understanding, with respect to *their* respective pretensions, as well as upon their joint views with reference to those of Russia. Copies of the instructions to Mr. Middleton are, therefore, herewith transmitted to you: and the President wishes you to confer freely with the British Government on the subject.

The principles settled by the Nootka Sound convention of 28th October, 1790, were—

1st. That the rights of fishing in the South Seas: of trading with the natives of the Northwest Coast of America; and of making settlements on the coast itself, for the purposes of that trade, north of the *actual* settlements of Spain, were common to all the European nations, and, of course, to the United States.

2d. That so far as the *actual* settlements of Spain had extended, she possessed the exclusive rights, territorial, and of navigation and fishery: extending to the distance of ten miles from the coasts so *actually occupied*.

3d. That, on the coasts of *South America*, and the adjacent Islands, *south* of the parts already occupied by Spain, no settlement should thereafter be made either by British or Spanish subjects: but, on both sides, should be retained the liberty of landing and of erecting temporary buildings for the purposes of the fishery. These rights were, also, of course, enjoyed by the people of the United States.

The exclusive rights of Spain to any part of the American conti-

nents have ceased. That portion of the convention, therefore, which recognizes the exclusive colonial rights of Spain on these continents, though confirmed, as between Great Britain and Spain, by the first additional article to the treaty of the 5th of July, 1814, has been extinguished by the fact of the Independence of the South American nations and of Mexico. Those independent nations will possess the rights incident to that condition, and their territories will, of course, be subject to no *exclusive* right of navigation in their vicinity, or of access to them, by any foreign nation.

A necessary consequence of this state of things, will be, that the American continents, henceforth, will no longer be subject to *colonization*. Occupied by civilized, independent nations, they will be accessible to Europeans, and each other, on that footing alone; and the Pacific Ocean, in every part of it, will remain open to the navigation of all nations, in like manner with the Atlantic.

Incidental to the condition of national independence and sovereignty, the rights of interior navigation of their rivers will belong to each of the American nations within its own territories.

The application of colonial principles of exclusion, therefore, cannot be admitted by the United States as lawful, upon any part of the Northwest Coast of America, or as belonging to any European nation. Their own settlements there, when organized as territorial governments, will be adapted to the freedom of their own institutions, and, as constituent parts of the Union, be subject to the principles and provisions of their constitution.

The right of carrying on trade with the natives throughout the Northwest Coast, they cannot renounce. With the Russian settlements at Kodiack, or at New Archangel, they may fairly claim the advantage of a fur trade, having so long enjoyed it unmolested, and because it has been, and would continue to be, as advantageous, at least, to those settlements as to them. But they will not contest the right of Russia to prohibit the traffic, as strictly confined to the Russian settlement itself, and not extending to the original natives of the coast.

If the British Northwest and Hudson's Bay Companies have any posts on the coast, as suggested in the article of the *Quarterly Review*, above cited, the 3d article of the convention of the 20th October, 1818, is applicable to them. Mr. Middleton is authorized, by his instructions, to propose an article of similar import, to be inserted in a joint convention between the United States, Great Britain, and Russia, for a term of ten years from its signature. You are authorized to make the same proposal to the British Government, and, with a view to draw a definite line of demarkation, for the future, to stipulate that no settlement shall hereafter be made on the Northwest Coast, or on any of the islands thereto adjoining, by Russian subjects south of latitude 55: by citizens of the United States north of latitude 51, or by British subjects, either south of 51 or north of 55. I mention the latitude of 51 as the bound within which, we are willing to limit the future settlement of the United States, because it is not to be doubted that the Columbia river branches as far north as 51, although

it is most probably, not the Tacoutche Tesse of Mackenzie. As, however, the line already runs in latitude 49, to the Stony Mountains, should it be earnestly insisted upon by Great Britain, we will consent to carry it in continuance, on the same parallel to the sea. Copies of this instruction will likewise be forwarded to Mr. Middleton, with whom you will freely, but cautiously correspond, on this subject, as well as in relation to your negotiation respecting the suppression of the slave trade.

I have the honor to be, with great respect,

Sir, your very humble

And obedient servant,

JOHN QUINCY ADAMS.

RICHARD RUSH, *Envoy Extraordinary*
and *Minister Plenipotentiary U. S. London.*

*Extract of a Letter from Mr. Rush to Mr. Adams, dated August
12th, 1824.*

No. 10.

VI. NORTHWEST COAST OF AMERICA.

I now come to the last of the subjects that the President confided to me—that contained in your instructions of the 2d of July, 1823, relative to the Northwest Coast of America. Although no arrangement was concluded on this subject, it is not the less incumbent upon me carefully to apprise you of the discussions by which it was marked. They will probably be found not without interest. In one of my preliminary communications respecting the negotiation, viz. my number 356, I informed you, that I had thought it necessary, yielding to events that transpired after your instructions were received, to treat of this subject of the Northwest Coast with this Government alone, without considering the negotiation as common also to Russia, as had been contemplated by your instructions. In this deviation from your instructions, I assigned my reasons, which, as they weighed strongly with me at the time, and do not appear, from any lights that I possess, to have lost any of their force since, I must hope will have been approved. My duty, therefore, will now be confined to informing you of the discussions that took place, in my hands, with Britain, and as limited to the interests of the United States and Britain. These are the only discussions, I may add, with which I have any acquaintance, not having heard from Mr. Middleton of the nature of those that were carried on at St. Petersburg, though, through the kindness of the Russian Ambassador at this Court, I have, very recently, been apprized of their result. It is probable that it has been through some accident that I have not heard from Mr. Middleton, having apprized him of the course that I had felt myself compelled to adopt. In obedience to your instructions, I also wrote to him on the

subject of the Slave Trade, transmitting him a copy of the convention with this Government, as soon as I had signed it.

In another of my communications, written before the negotiation opened, viz. my number 358, I gave you a general intimation of what I then supposed would be the terms upon which this Government would be disposed to arrange with us the questions of boundary upon the Northwest Coast.

At that time, however, I had been put in possession of nothing distinctive or final upon the subject, and was to wait the arrival of the negotiation itself, for the full and authentic statement of the British claims. I am the more particular in referring back to this latter communication, as it appears that I was under important misapprehensions in it, in regard to the true nature of the British claims. They proved, on formally and accurately disclosing themselves, to be far more extensive than I had believed, and were advanced in a manner more confident than I had even then anticipated.

I opened this subject with the British Plenipotentiaries at the eleventh conference. I remarked, that, although it had been understood in my preparatory conversations with the proper organ of his Majesty's Government, that the respective territorial or other claims of the United States and Russia, as well as of Great Britain and Russia, regarding the country westward of the Rocky Mountains, were to be matter of separate discussion at St. Petersburg: yet, that those of the United States and Britain were now, according to the understanding in the same conversations, to be taken up for formal discussion in London.

My Government was aware, that the convention of October, 1818, between the United States and Great Britain, one article of which contained a temporary regulation of this interest, had still four years to run; but the President, nevertheless, was of opinion, that the present was not an unsuitable moment for attempting a new and more definite adjustment of the respective claims of the two Powers to the country in question. It was a country daily assuming an aspect, political, commercial, and territorial, of more and more interest to the United States. It bore upon their relations with other States, upon their fisheries as well as their commerce in the Pacific, upon their fur trade, and the whole system of their intercourse with vast tribes of the Indians. I reminded the British Plenipotentiaries, that, by the third article of the treaty of Washington, of February the twenty-second, 1819, between the United States and Spain, the boundary line between the two countries was fixed, in part, along the Southern Bank of the Arkansas, to its source, in latitude 42 north, and thence, by that parallel of latitude, to the South Sea; and that Spain had also renounced to the United States, by the same article, all her rights north of that parallel. I then made known, at this and other conferences—for, from the extent of the subject, I was unable even to open it all at one conference—what I understood to be the nature of the title of the United States to the whole of the country north of the parallel stated. I said, that, apart from all the right as thus

acquired from Spain, which, however, was regarded by my Government as surpassing the right of all other European Powers, on that coast, the United States claimed, in their own right, and as their absolute and exclusive sovereignty and dominion, the whole of the country west of the Rocky Mountains, from the 42d to at least as far up as the 51st degree of north latitude. This claim they rested upon their first discovery of the river Columbia, followed up by an effective settlement at its mouth—a settlement which was reduced by the arms of Britain during the late war, but formally surrendered up to the United States at the return of peace.

Their right, by first discovery, they deemed peculiarly strong, having been made not only from the sea, by Captain Gray, but also from the interior, by Lewis and Clarke, who first discovered its sources, and explored its whole inland course to the Pacific Ocean. It had been ascertained that the Columbia extended, by the River Multnomah, to as low as 42 North; and, by Clarke's river, to a point as high up as 51, if not beyond that point; and to this entire range of country, contiguous to the original dominion of the United States, and made a part of it by the almost intermingling waters of each, the United States, I said, considered their title as established, by all the principles that had ever been applied on this subject by the Powers of Europe, to settlements in the American hemisphere. I asserted, that a nation, discovering a country, by entering the mouth of its principal river at the sea coast, must necessarily be allowed to claim and hold, as great an extent of the interior country as was described by the course of such principal river, and its tributary streams; and that the claim, to this extent, became doubly strong, where, as in the present instance, the same river had also been discovered and explored from its very mountain springs to the sea.

Such an union of titles, imparting validity to each other, did not often exist. I remarked, that it was scarcely to be presumed that any European nation would henceforth project any colonial establishment on any part of the Northwest Coast of America, which, as yet, had never been used to any other useful purpose than that of trading with the aboriginal inhabitants, or fishing in the neighboring seas; but that the United States should contemplate, and at one day form, permanent establishments there, was naturally to be expected, as proximate to their own possessions, and falling under their immediate jurisdiction. Speaking of the Powers of Europe, who had ever advanced claims to any part of this coast, I referred to the principles that had been settled by the Nootka Sound Convention of 1790, and remarked that Spain had now lost all her exclusive colonial rights, that were recognized under that Convention, first, by the fact of the Independence of the South American States, and of Mexico, and next, by her express renunciation of all her rights, of whatever kind, above the 42d degree of North Latitude, to the United States. Those new States would, themselves, now possess the rights incident to their condition of political independence, and the claims of the United States above the 42d parallel, as high up as 60, claims, as well in their own

right, as by their succession to the title of Spain, would henceforth necessarily preclude other nations from forming colonial establishments upon any part of the American continents. I was, therefore, instructed to say, that my Government no longer considered any part of those Continents as open to future colonization by any of the Powers of Europe, and that this was a principle upon which I should insist in the course of the negotiation.

It was in this manner that I first laid down, for the information of this Government, the principles contained in your despatch, or flowing from them. I combined, with what you had written to me, the contents of the Message of the President, to Congress, of the 2d of December last, a document which I could not but regard with the highest solemnity towards marking out my duty. I added, that the United States did not desire to interfere with the actual settlements of other nations on the Northwest Coast of America, and that, in regard to those which Great Britain might have formed above the 51st degree of latitude, they would remain, with all such rights of trade with the natives, and rights of fishery, as those settlements had enjoyed hitherto. As regarded future settlements, by either of the parties, I said that it was the wish of my Government to regulate these upon principles that might be mutually satisfactory, and tend to prevent all collision. I was, therefore, instructed to propose, first, the extension to a further term of ten years, of the third article of the Convention of October, 1818: and, secondly, that Britain should stipulate, during the like term, that no settlement should be made by any of her subjects on the Northwest Coast of America, or the Islands adjoining, either South of the fifty-first degree of latitude, or North of the fifty-fifth degree: the United States stipulating that none should be made by their citizens North of the fifty-first degree. This proposal I drew up in form, and annexed it (marked F) to the Protocol of the twelfth conference. I said, that these limits were supposed to be sufficient to secure to Great Britain all the benefit to be derived from the settlements of her Northwest and Hudson's Bay Companies on that coast, and were indicated with that view. The insertion of a limit of ten years, which I introduced as applicable to the above restriction upon future settlements, may require explanation. In your despatch to me, as I understood it, there was no such limit of time specified.

But, in your instructions to Mr. Middleton, of the 22d of July, 1823, which you enclosed to me, I perceive that there was this limit introduced, and that it was under this limit the proposal was described to him as the one which I was to submit to the British Government. I concluded that it would be erring on the safe side, to take, in this particular, the instructions to Mr. Middleton, as my guide, and I did so accordingly.

It is proper now, as on the question of the St. Lawrence, that I should give you faithful information of the manner in which the British Plenipotentiaries received my proposal, and the principles under which I had introduced it. I may set out by saying, in a word, that they totally declined the one, and totally denied the other. They said

that Great Britain considered the whole of the unoccupied parts of America, as being open to her future settlements, in like manner as heretofore. They included within these parts, as well that portion of the Northwest Coast, lying between the 42d and 51st degrees of latitude, as any other parts. The principle of colonization on that coast, or elsewhere, on any portion of those continents not yet occupied, Great Britain was not prepared to relinquish. Neither was she prepared to accede to the exclusive claim of the United States. She had not, by her convention with Spain, in 1790, or at any other period, conceded to that Power any exclusive rights on that coast, where actual settlements had not been formed. She considered the same principles applicable to it now, as then. She could not concede to the United States, who held the Spanish title, claims which she had felt herself obliged to resist, when advanced by Spain, and on her resistance to which, the credit of Great Britain had been thought to depend.

Nor could Great Britain at all admit, the Plenipotentiaries said, the claim of the United States, as founded on their own first discovery. It had been objectionable with her in the negotiation of 1818, and had not been admitted since. Her surrender to the United States of the post at Columbia River, after the late war, was in fulfilment of the provisions of the first article of the Treaty of Ghent, without affecting questions of right on either side. Britain did not admit the validity of the discovery by Captain Gray. He had only been on an enterprise of his own, as an individual, and the British Government was yet to be informed under what principles or usage, among the nations of Europe, his having first entered or discovered the mouth of the river Columbia, admitting this to have been the fact, was to carry after it such a portion of the interior country as was alleged. Great Britain entered her dissent to such a claim; and, least of all, did she admit that the circumstance of a merchant vessel of the United States having penetrated the coast of that continent at Columbia River, was to be taken to extend a claim in favor of the United States along the same coast, both above and below that river, over latitudes that had been previously discovered and explored by Great Britain herself, in expeditions fitted out under the authority and with the resources of the nation. This had been done by Captain Cook, to speak of no others, whose voyage was at least prior to that of Captain Gray. On the coast, only a few degrees South of the Columbia, Britain had made purchases of territory from the natives before the United States were an independent power; and upon that river itself, or upon rivers that flowed into it, West of the Rocky Mountains, her subjects had formed settlements coeval with, if not prior to, the settlement by American citizens at its mouth.

Such is a summary of the grounds taken at the very outset by the British Plenipotentiaries, in opposition to our claims. On my remarking, immediately, and before proceeding to any discussion of them, that I had not before been aware of the extent and character of all these objections, they replied, that it was also for the first time that they had been apprised, in any authentic and full way, of the

nature of the claims, as I had now stated them, on behalf of the United States; claims which they said they were bound to declare, at once, Great Britain was wholly unprepared to admit; and, especially, that which aimed at interdicting her from the right of future colonization in America.

Resuming the subject, I said, that it was unknown to my Government, that Great Britain had ever even advanced any claim to territory on the Northwest Coast of America, by the right of occupation, before the Nootka Sound controversy. It was clear, that, by the treaty of Paris, of 1763, her territorial rights in America, were bounded Westward by the Mississippi. The claim of the United States, under the discovery by Captain Gray, was, therefore, at all events, sufficient to overreach, in point of time, any that Great Britain could allege along that coast, on the ground of prior occupation or settlement. As to any alleged settlements by her subjects on the Columbia, or on rivers falling into it, earlier, or as early as the one formed by American citizens at Astoria, I knew not of them, and was not prepared to admit the fact. As to the discovery itself of Captain Gray, it was not for a moment to be drawn into question. It was a fact before the whole world. The very geographers of Britain had adopted the name which he had given to this river.

Vanconver himself, undoubtedly the first British navigator who had ever entered it, admitted that he found Captain Gray there; and the very instructions to this British officer, drawn up in March, 1791, and to be seen among the records of the British admiralty, expressly referred by name, to the previous expedition in that quarter of the American sloop, the Washington. Was this, I asked, to be accounted nothing? Did it lie with a foreign Power, whose own archives might supply her with the essential, incontestible fact of the first discovery by the vessel of another Power, of a vast river whose waters, from their source to the ocean, had remained until then, totally unknown to all civilized nations—did it lie with such foreign Power to say, that the discovery was not made by a national ship, or under national authority? The United States, I said, could admit no such distinction; could never surrender, under it, or upon any ground, their claim to this discovery. The ship of Captain Gray, whether fitted out by the Government of the United States or not, was a national ship. If she was not so in a technical sense of the word, she was in the full sense of it, applicable to such an occasion. She bore at her stern the flag of the nation, sailed forth under the protection of the nation, and was to be identified with the rights of the nation. The extent of this interior country attaching to this discovery, was founded, I said, upon a principle at once reasonable and moderate—reasonable, because, as discovery was not to be limited to the local spot of a first landing place, there must be a rule both for enlarging and circumscribing its range; and none more proper than that of taking the water courses which nature had laid down, both as the fair limits of the country, and as indispensable to its use and value—moderate, because the nations of Europe had often, under their rights

of discovery, carried their claims much farther. Here I instanced, as sufficient for my purpose, and pertinent to it, the terms in which many of the royal charters and letters patent had been granted, by the Crown in England, to individuals proceeding to the discovery or settlement of new countries on the American Continent: Among others, those from Elizabeth, in 1578. to Sir Humphrey Gilbert, and, in 1584, to Sir Walter Raleigh: those from James I. to Sir Thomas Yates, in 1606 and 1607, and the Georgia charter of 1732. All these, extracts from which I produced, comprehended a range of country fully justifying my remark. By the words of the last, a grant is passed to all territories along the seacoast, from the river Savannah to the most southern stream "of another great river, called the Altamaha, and westward from the heads of the said rivers, in a direct line, to the South seas." To show that Britain was not the only European nation, who, in her territorial claims on this continent, had had an eye to the rule of assuming water courses to be the fittest boundaries, I also cited the charter of Louis XIV. to Crozat, by which "all the country drained by the waters emptying directly or indirectly into the Mississippi," is declared to be comprehended under the name, and within the limits, of Louisiana.

If Britain had put forth no claims on the Northwest Coast, founded on prior occupation, before the Nootka Sound contest, still less could she ever have established any. I remarked, at any period, founded on prior discovery. Claims of the latter class belonged wholly to Spain, and now, consequently, to the United States. The superior title of Spain on this ground, as well as others, was, indeed, capable of demonstration. Russia had acknowledged it in 1790, as the State papers of the Nootka Sound controversy would show. The memorial of the Spanish Court to the British Minister, on that occasion, expressly asserted, that, notwithstanding all the attempted encroachments upon the Spanish coasts of the Pacific Ocean, Spain had preserved her possessions there entire, possessions which she had constantly, and before all Europe, on that and other occasions, declared to extend to as high at least as the sixtieth degree of North latitude. The very first article of the Nootka Sound convention, attested, I said, the superiority of her title: for, whilst, by it, the nations of Europe generally were allowed to make settlements on that coast, it was only for the purposes of trade with the natives, thereby excluding the right of any exclusive or colonial establishments for other purposes. As to any claim on the part of Britain under the voyage of Captain Cook, I remarked, that this was sufficiently superseded, (passing by every thing else,) by the Journal of the Spanish expedition from San Blas, in 1775, kept by Don Antonio Maurelle, for an account of which, I referred the British Plenipotentiaries to the work of Daines Barrington, a British author. In that expedition, consisting of a frigate and schooner, fitted out by the Viceroy of Mexico, the Northwest Coast was visited in latitude 45, 47, 49, 53, 55, 56, 57, and 58, not one of which points, there was good reason for believing, had ever been explored, or as much as seen, up to that day, by any navigator of

Great Britain. There was, too, I said, the voyage of Juan Peres, prior to 1775; that of Aguilar, in 1601, who explored that coast in latitude 45; that of de Fuca, in 1592, who explored it in latitude 48, giving the name, which they still bore, to the straits in that latitude, without going through a much longer list of other early Spanish navigators in that sea, whose discoveries were confessedly of a nature to put out of view those of all other nations. I finished by saying, that, in the opinion of my Government, the title of the United States to the whole of that coast, from latitude 42, to as far North as latitude 60, was, therefore, superior to that of Britain, or any other power; first, through the proper claim of the United States by discovery and settlement, and, secondly, as now standing in the place of Spain, and holding in their hands all her title.

Neither my remarks nor my authorities, of which I have endeavored to present an outline, made the impression upon the British Plenipotentiaries which I was desirous that they should have produced. They repeated their animated denials of the title of the United States, as alleged to have been acquired by themselves, enlarging and insisting upon their objections to it, as I have already stated them. Nor were they less decided in their renewed impeachments of the title of Spain. They said, that it was well known to them what had formerly been the pretensions of Spain to absolute sovereignty and dominion in the South Seas, and over all the shores of America which they washed; but, that these were pretensions which Britain had never admitted: on the contrary, she had strenuously resisted them. They referred to the note of the British Minister to the Court of Spain, of May 16th, 1790, in which Britain had not only asserted a full right to an uninterrupted commerce and navigation in the Pacific, but also that of forming, with the consent of the natives, whatever establishments she thought proper on the Northwest Coast, in parts not already occupied by other nations. This had always been the doctrine of Great Britain, and from it, nothing that was due, in her estimation, to other Powers, now called upon her in any degree to depart.

As to the alleged prior discoveries of Spain, all along that coast, Britain did not admit them, but with great qualification. She could never admit that the mere fact of Spanish navigators having first seen the coast at particular points, even where this was capable of being substantiated as the fact, without any subsequent or efficient acts of sovereignty or settlement following on the part of Spain, was sufficient to exclude all other nations from that portion of the globe. Besides, they said, even on the score of prior discovery on that coast, at least as far up as the 48th degree of north latitude, Britain herself had a claim over all other nations.

Here they referred to Drake's expedition in 1578, who, as they said, explored that coast on the part of England, from 37 to 48 north, making formal claim to these limits in the name of Elizabeth, and giving the name of New Albion to all the country which they comprehended. Was this, they asked, to be reputed nothing in the comparison of prior discoveries, and did it not even take in a large part of the very coast

now claimed by the United States as of prior discovery on their side? Such was the character of their remarks on this part of the title. In connection with them, they called my attention to the report of a select committee of the House of Representatives, in April last, on the subject of Columbia River. There is a letter from General Jesup in this report, adopted by the committee as part of the report, and which, as the British Plenipotentiaries said, had acquired importance in the eyes of their Government from that fact. They commented upon several passages of this letter, a newspaper copy of which they held in their hands, but chiefly on that part which contains an intimation that a removal from our territory of all British subjects, now allowed to trade on the waters of the Columbia, might become a necessary measure on the part of the United States, as soon as the convention of 1818 had expired. Of this intimation the British Plenipotentiaries complained, as one calculated to put Great Britain especially upon her guard, arriving, as the document did, at a moment when a friendly negotiation was pending between the two Powers, for the adjustment of their relative and conflicting claims to that entire district of country. Had I any knowledge, they asked, of this document? I replied that I had not, as communicated to me by my Government. All that I could say of it was, and this I would say confidently, that I was sure it had been conceived in no unfriendly spirit towards Great Britain. Yet, I was bound, unequivocally, to re-assert, and so I requested the British Plenipotentiaries would consider me as doing, the full and exclusive sovereignty of the United States over the whole of the territory beyond the Rocky Mountains, washed by the river Columbia, in manner and extent as I had stated, subject, of course, to whatever existing conventional arrangements they may have formed in regard to it with other Powers. Their title to this whole country they considered as not to be shaken. It had often been proclaimed in the legislative discussions of the nation, and was otherwise public before the world. Its broad and stable foundations were laid in the first uncontradicted discovery of that river, both at its mouth and at its source, followed up by an effective settlement, and that settlement the earliest ever made upon its banks. If a title in the United States, thus transcendent, needed confirmation, it might be sought in their now uniting to it the title of Spain. It was not the intention of the United States, I remarked, to repose upon any of the extreme pretensions of that Power to speculative dominion in those seas, which grew up in less enlightened ages, however countenanced in those ages; nor had I, as their Plenipotentiary, sought any aid from such pretensions; but, to the extent of the just claims of Spain, grounded upon her fair enterprise and resources, at periods when her renown for both, filled all Europe, the United States had succeeded, and, upon claims of this character, it had, therefore, become as well their right as their duty to insist. I asserted again the incontestible priority of Spanish discoveries on the coast in question. I referred to the voyage of Cortez, who, in 1537, discovered California; to those of Alarcon and Coronado, in 1540; to that of Cabrillo, in 1542, all of whom were prior to Drake,

and the last of whom made the coast, by all the accounts that are given, as high up as latitude 44. As to Drake, I said, that, although Fleurieu, in his introduction to Marchand, did assert that he got as far north as 48, yet Hakluyt, who wrote almost at the time that Drake flourished, informs us that he got no higher than 43, having put back at that point from "the extreme cold." All the later authors or compilers, also, who spoke of his voyage, however they might differ as to the degree of latitude to which he went, adopted from Hakluyt this fact of his having turned back from the intensity of the weather. The preponderance of probability, therefore, I alleged, as well as of authority, was, that Drake did not get beyond 43 along that coast. At all events, it was certain that he had made no settlements there, and the absence of these would, under the doctrine of Great Britain, as applied by her to Spain, prevent any title whatever attaching to his supposed discoveries. They were, moreover, put out of view by the treaty of 1763, by which Britain agreed to consider the Mississippi as her western boundary upon that continent.

Our discussions, which grew into length, and only a condensed view of which I have aimed at presenting to you, terminated without any change of opinion on either side. Having stated the principal points which marked them, my duty seems to be drawing to a close, without the necessity of setting before you all the amplifications and details into which, on topics so copious, they would sometimes run. They were ended on the side of Great Britain, by her Plenipotentiaries repeating, that they found it altogether impossible to accede, either to the proposal of the United States, or to the reasoning invoked in its support. That, nevertheless, they desired to lay a foundation of harmony between the two countries in that part of the globe, to close—not leave open, sources of future disagreement, which time might multiply and aggravate. That, with this view, and setting aside the discordant principles of the two Governments, in the hope of promoting it, they had to propose, first, that the third article of the convention of October, 1818, should now be considered as at an end. Secondly, that, instead of it, the boundary line between the territories, respectively claimed by the two Powers, westward of the Rocky Mountains, should be drawn due west, along the 49th parallel of latitude, to the point where it strikes the northeasternmost branch of the Columbia, and thence, down, along the middle of the Columbia, to the Pacific ocean; the navigation of this river to be forever free to the subjects and citizens of both nations; and further, that the subjects or citizens of either should not, in future, be allowed to form settlements within the limits to be thus assigned to the other, with a saving in favor of settlements already formed within the prohibited limits, the proprietors or occupants of which, on both sides, should be allowed to remain ten years longer.

This proposal they annexed, in form (marked P.) to the protocol of the twenty-third conference. They remarked, that, in submitting it, they considered Great Britain as departing largely from the full extent of her right, and that, if accepted by the United States, it

would impose upon her the necessity, ultimately, of breaking up four or five settlements, formed by her subjects within the limits that would become prohibited; and that they had formed, under the belief of their full right, as British subjects, to settle there. But their Government was willing, they said, to make these surrenders, for so they considered them, in a spirit of compromise, on points where the two nations stood so divided.

I instantly declared to the British Plenipotentiaries my utter inability to accept such a boundary as they had proposed. I added, at the same time, that I knew how the spirit of just accommodation also animated the Government of the United States upon this occasion. That, in compliance with this spirit, and in order to meet Great Britain on ground that might be deemed middle, I would consent so far to vary the terms of my own proposal, annexed to the twelfth protocol, as to shift its southern line as low as 49, in place of 51. I desired it to be understood, that this was the extreme limit to which I was authorized to go: and that, in being willing to make this change, I too considered the United States as abating their rights, in the hope of being able to put an end to all conflict of claims, between the two nations, to the coast and country in dispute.

The British Plenipotentiaries, after having this modification of my first proposal a fortnight under consideration, rejected it, and they made me no new proposal in return.

They did not, in terms, enter their rejection of this, my second proposal, on the protocol, and I did not urge it, thinking that their abstinence, as far as it could have any effect, might tend to leave the door somewhat less permanently closed against re-consideration, should the proposal, as so modified by me, ever be again made. But it is right for me to state, that they more than once declared, at the closing hours of the negotiation, that the boundary marked out in their own written proposal, was one from which the Government of the United States must not expect Great Britain to depart.

I have to add, that their proposal was first made to me verbally, at the twentieth conference, and that it then embraced an alternative of leaving the third article of the Convention of 1818, to its natural course and limit. But this they afterwards controlled, by their more formal and final proposition, in writing, annexed, as before described, to the protocol of the twenty-third conference.

PROTOCOL OF THE ELEVENTH CONFERENCE

Of the American and British Plenipotentiaries, held at the Board of Trade, on the 1st of April, 1824.

Present,—Mr. Rush, Mr. Huskisson, Mr. Stratford Canning.

The protocol of the preceding conference was read over, and signed.

The American Plenipotentiary opened the subject of territorial claims on the Northwest Coast of America, westward of the Rocky Mountains. It having been understood that the pretension which had been put forward by the Cabinet of St. Petersburg, respecting

its jurisdiction in that quarter, was to be a matter of separate discussion between the respective parties, he observed. that, notwithstanding this circumstance, and although the Convention of October, 1818, one article of which contained a temporary regulation with respect to the above mentioned claims, had still four years to continue, his Government was of opinion, that the present was not an unsuitable moment for attempting a settlement of the boundary on the Northwest Coast of America, westward of the Rocky Mountains; and he therefore proceeded to explain the nature of the claims which his Government thought itself entitled to advance.

This statement not being completed in the present conference, Mr. Rush undertook to resume it on the following day.

RICHARD RUSH,
W. HUSKISSON,
STRATFORD CANNING.

PROTOCOL OF THE TWELFTH CONFERENCE

Of the American and British Plenipotentiaries, held at the Board of Trade, on the 2d of April, 1824.

Present, Mr. Rush,
Mr. Huskisson,
Mr. Stratford Canning.

The protocol of the preceding conference was read over and signed.

The American Plenipotentiary resumed the communication which he had commenced in that conference, on the subject of the territorial claims on the Northwest Coast of America, westward of the Rocky Mountains, and concluded by giving in the paper marked F, annexed hereto, as containing the proposal of his Government on that head.

Adjourned to Monday, the 5th of April.

RICHARD RUSH,
W. HUSKISSON,
STRATFORD CANNING.

PROTOCOL OF THE TWENTIETH CONFERENCE

Of the American and British Plenipotentiaries, held at the Board of Trade, on the 29th of June, 1824.

Present, Mr. Rush,
Mr. Huskisson,
Mr. Stratford Canning.

The protocol of the preceding conference was read over and signed.

The British Plenipotentiaries stated and explained, at length, the sentiments of their Government with respect to the conflicting claims of Great Britain and the U. States to the territories in North America,

lying between the Rocky Mountains and the Pacific Ocean. They declined the proposal made on this subject by the American Plenipotentiary, and annexed to the 12th protocol, because it would substantially have the effect of limiting the claims of their Government to a degree inconsistent, as they thought, with the credit and just interests of the nation. After much discussion and mutual explanation of the claims on each side, when taken in their full extent, it was agreed that, following the example given by the American Plenipotentiary in his proposal, it would be advisable to attempt a settlement on terms of mutual convenience, setting aside, for that purpose, the discordant principles on which the respective claims were founded.

Whereupon, the British Plenipotentiaries stated, in general terms, that they were ready either to agree on a boundary line, to be drawn due west from the Rocky Mountains, along the 49th parallel of latitude, to the northeasternmost branch of the Columbia or Oregon River, and thence, down the middle of that river, to the ocean, or to leave the third article of the convention of 1818 to its natural course.

The American Plenipotentiary, in remarking upon the boundary, declared his utter inability to accede to it; but finding that the line offered in his former proposal, was considered wholly inadmissible by the British Plenipotentiaries, said that, in the hope of adjusting the question, he would so far vary his former line to the south, as to consent that it should be the 49th, instead of the 51st degree of north latitude.

In the course of the conference, the American Plenipotentiary stated, that he was instructed to insist on the principle, that no part of the American continent was henceforward to be open to colonization from Europe. To explain this principle, he stated that the independence of the late Spanish provinces precluded any new settlement within the limits of their respective jurisdictions; that the United States claimed the exclusive sovereignty of all the territory within the parallels of latitude which include as well the mouth of the Columbia as the heads of that river, and of all its tributary streams; and that, with respect to the whole of the remainder of that continent not actually occupied, the Powers of Europe were debarred from making new settlements, by the claim of the United States, as derived under their title from Spain.

The British Plenipotentiaries asserted, in utter denial of the above principle, that they considered the unoccupied parts of America just as much open as heretofore, to colonization by Great Britain, as well as by other European Powers, agreeably to the convention of 1790, between the British and Spanish Governments, and that the United States would have no right whatever to take umbrage at the establishment of new colonies from Europe in any such parts of the American continent.

The British Plenipotentiaries added, that they felt themselves more particularly called upon to express their distinct denial of the principle and claims thus set forth by the American Plenipotentiary, as his claim respecting the territory watered by the river Columbia and its tribu-

tary streams, besides being essentially objectionable in its general bearing, had the effect of interfering directly with the actual rights of Great Britain, derived from use, occupancy, and settlement.

RICHARD RUSH,
W. HUSKISSON,
STRATFORD CANNING.

**EXTRACT FROM PROTOCOL OF THE TWENTY-THIRD
CONFERENCE,**

*Of the American and British Plenipotentiaries, held at the Board of
Trade, on the 13th July, 1824.*

Present,—Mr. Rush,
Mr. Huskisson,
Mr. Stratford Canning.

The protocol of the preceding conference was read over and signed.

The British Plenipotentiaries, in more complete explanation of the statement made by them, in the twentieth conference, gave in an article comprising the counter proposals of their Government, as to the Northwest boundary in America, from the Rocky Mountains to the Pacific Ocean. They observed, at the same time, that, if their article were accepted, in substance, by the American Government, it would be necessary, on framing it into a convention, to give its details and accompanying arrangements a more distinct and expanded shape. They added, that, in making the annexed proposal, they had departed considerably from the full extent of the British right, agreeably to the readiness which they had before expressed to settle the Northwest boundary, on grounds of fair compromise and mutual accommodation.

The American Plenipotentiary, in receiving the above article from the British Plenipotentiaries, remarked, that he wished it also to be understood, that, in proposing a modification of the article originally submitted by him, on this subject, he had been governed by the same view."

F.

AMERICAN PAPERS,

On the Northwest coast of America (twelfth protocol.)

Whereas, by the third article of the Convention between the United States and his Britannic Majesty, signed at London, on the twentieth of October, 1818, it was agreed, that any country that might be claimed by either party on the Northwest Coast of America, westward of the Stoney Mountains, should, together with its harbors, bays, and creeks, and the navigation of all rivers within the same, be free and open for the term of ten years from the date of the said Convention, to the vessels, citizens, and subjects of the two Powers, it having been understood, that such agreement was not to be construed to the prejudice of any claim which either of the parties might have to any

part of the said country, or taken to affect the claims of any other Power, but only to prevent disputes and differences between the parties themselves; and whereas it is desirable that the provisions of the said article should be continued for a longer term than as therein specified, it is, therefore, agreed, by the high contracting parties, that the same shall continue in force for the full term of ten years from the signature of the present Convention. The high contracting parties further agree, that, during the like term, no settlement shall be made on the Northwest Coast of America, or on any of the islands thereunto adjoining, by citizens of the United States, north of the fifty-first degree of north latitude, or by British subjects either south of the said fifty-first degree, or north of the fifty-fifth degree of north latitude.

P.

BRITISH PAPER,

On the Northwest Coast of America, (twenty-third Protocol.)

It is agreed that the third article of the Convention concluded at London, on the 20th of October, 1818, between His Britannic Majesty, and the United States of America, shall cease and determine from the date hereof; and instead of the stipulations contained in that article, it is further agreed, that the boundary line between the territories claimed by His Britannic Majesty, and those claimed by the United States, to the West in both cases of the Rock Mountains, shall be drawn due west, along the 49th parallel of north latitude, to the point where that parallel strikes the great Northeasternmost branch of the Oregon, or Columbia River; marked in the maps as M-Gillivray's River; thence, down, along the middle of the Oregon or Columbia, to its junction with the Pacific Ocean: the navigation of the whole channel being perpetually free to the subjects and citizens of both parties; the said subjects and citizens being also reciprocally at liberty, during the term of ten years from the date hereof, to pass and re-pass by land and by water; and to navigate, with their vessels and merchandise, all the rivers, bays, harbors, and creeks, as heretofore, on either side of the abovementioned line, and to trade with all and any of the nations free of duty or impost of any kind, subject only to such local regulations, as, in other respects, either of the two contracting parties may find it necessary to enforce within its own limits, and prohibited from furnishing the natives with fire arms and other exceptionable articles to be hereafter enumerated; and, it is further especially agreed, that neither of the high contracting parties, their respective subjects or citizens shall henceforward form any settlements within the limits assigned hereby to the other, west of the Rocky Mountains; it being at the same time understood, that any settlements already formed by the British to the South and East of the boundary line above described, or by citizens of the United States to the North and West of the same line, shall continue to be occupied and enjoyed at the pleasure of the present proprietors or occupants, without let or hindrance of any kind until the expiration of the above mentioned term of ten years from the date hereof.

her
ties
the
spe-
that
the
ties
ade
ere-
first
said

)
l at
sty,
the
cle,
ries
ited
be
oint
the
ay's
bia,
the
s of
y at
pass
sels
cto-
all
y to
act-
and
ex-
es-
re-
ents
ocky
ents
iary
orth
d at
t or
oned